Law (Genl.) (1927) Department.

Misc SERIES.

G.O. No. 2141

DATED 8-7-1927.

[Despatch Abstract.]

Legal assistance - K. Ramappa - Police Constable No. 616, South Kanara District - Fees to pleader - Rs. 70 sanctioned -

G. O. 30

LAW (GENERAL) DEPARTMENT.

(Go) 9418 K. S. 27

Received ..... 192 . *Registered* 192

Subject.

JOINT SECY TO GOVT 15 MAY 1927 LAW DEPT

Suit - (South Kanara) - Ramappa, K. - P.C.No.616 - Criminal case - defence - sanction for Vakil's fees - requested.

ENCLOSURES.
No. 3
Spare copies ....

Ref. No. 2101-C.27.

Station Mangalore . *Dated the* 13th May 192 7.

From (Name) E. M. Gawne, Esquire, I.C.S.,

(Designation) Dt. Magistrate of South Kanara.

To The Secretary to the Government of Madras

Law (General) Department.

Madras.

Sir,

The District Superintendent of Police, South Kanara was authorized by my predecessor to engage a Vakil to defend K. Ramappa, P.C.No.616 in C.C.No.5/27 on the file of the Joint Magistrate, Coondapoor at a daily fee of Rs.35/- subject to a maximum of Rs.60/- for the whole case. The case was a complaint filed against him and two others under Sections 161,166,339,340 and 355 I.P.C. The accused were discharged in the case. A copy of the order of discharge is enclosed.

2. The Vakil employed by the District Superintendent of Police has sent a receipt for Rs.70/- (enclosed) for his fee. The Vakil went from Udipi to Coondapoor a distance of

23 miles and appeared in Court on 2 days in connection with this case and was in Coondapoor for two days. The sum of Rs.70 claimed is therefore reasonable and may be paid. As the case arose in the course of discharge of the lawful duties of the P.C. in executing warrants, I recommend that the Vakil's fee of Rs.70/- referred to above may be borne by the State,

Your obedient servant,

Dt. Magistrate.

M.D'S.13/5.

Judicial Department.

Endorsement —

Referred to the Inspector General of Police for remarks.

(By order)

Under Secretary.

To the Inspector General of Police.

6-13

17

Revised bill for fees in
C. C No 25/21 on the file of the
Sub-divisional Judicial Magistrate,
Coondapore.

Case heard on 10/3/27 & 12/3/27.
at Coondapore.

Fees for his appearance
for the defence (for A1) on
the two days mentioned above
at Rs 30/- per day } 10-0-0

Udipi.
3/4/27

Vadiraja Venkataraya
Vakil, Udipi

Cr. J. Mis.-124.—21,182—27-7-25.

In the Court of the Joint Magistrate, Coondapoor division

JUDGMENT IN CALENDAR CASE NO. 5 1927 ON THE FILE
OF THE Joint ——— MAGISTRATE OF Coondapoor.

12th Day of March 1927.

A. S. Panchapakesa Ayyar Esq, M.A. (Oxon) I.C.S.

Complainant ... ... Annayya Shetty, nephew of Timmappa Shetty, Basanidigur village.

Accused ... ... 1. K. Ramappa.
2. Yellappa Shetty
3. Subbanna Shetty

Offence ... ... sections 161, 166, 339, 340 and 355 I.P.C.

Finding ... ... Not proved.

Sentence ... ... All the three accused discharged under Section 253(1) Cr.Pc.

Serial number.	Description of the Accused.						Date of					Explanation of delay.
	Name.	Father's Name.	Caste or race.	Occupation.	Residence.	Age.	Occurrence.	Complaint.	Apprehension or appearance.	Commencement of trial.	Close of trial.	
1	2						3					
1.	K. Ramappa	Santhayya	Kshatriya Hindu	P.B 616	Udipi	38	25.1.27	To the S.I. Udipi 26.1.27 To this court 31.1.27	2nd accused on 17/2/27 1st accused on 1.3.27	10.3.27	12.3.27	Taken on file on 31-1-27 and posted to 17-2-2 on which 1st accu was absent. On 1-3-27 1st accus applied for a adjournment to 10.3.27
2.	Yellappa Shetty	Ubuthaya Shetty	Nadavar Hindu	Bulli-toddy vendor	Sonse	30						
3.	Subbanna Shetty	Surappa Shetty	Nadavar Hindu	-do-	-do-	35						

Order

Three persons called Ramappa, Yellappa Shetty and Subbanna Shetty were complained against by one Annayya Shetty under Secs 161, 166, 339, 340 & 355 I.P.C. Seven witnesses were examined for the prosecution. P.W 3 is the complainant. He deposed that hearing that a bailable warrant was out against him from the Shrs Sub Magistrate's court Udipi, in connection with C.C 20/27 on the file of that court he together with P.Ws 5 & 6 started from his village, Badanidiyur, to Udipi on the morning of the 25th January in order to search out A1 who had served the bailable warrants on some other accused and get himself served with a bailable warrant. P.Ws 3, 5 & 6 took P.W 7 also with them from Udipi. All went to the house of Mr Ganapayya Shetty, their vakil, who advised them to engage also the services of another vakil, Mr Vittal Kamath (P.W 2) which they did. Then they went to the Munsiff's court Udipi. From there P.Ws 5, 6 & 7 were sent to search out A1 while P.W 3 went to drink water in Mr Ganapayya Shetty's house. Failing to see A1, P.Ws 5, 6 & 7 returned to Mr Ganappayya Shetty's house, took P.W 3 with them and proceeded on their way to Badanidiyur

Near the Shandy they met A1 to A3 coming in the opposite direction. A2 & A3 pointed out P.W3 to A1 as Annayya Shetty, and A1 at once swooped on him and caught his arm in token of arrest and proceeded to drag him when P.W3 asked A1 why he was being treated thus, A1 to A3 told him that he would learn by and by. Though P.Ws 6 & 7 offered to stand surety for P.W3, A1 would not accept them but continued to drag P.W3 along. In spite of P.W3's request to be led in front of the Munsiff's court where he would offer respectable sureties, A1 turned west into a side road and led him past the rear of the Munsiff's court. P.W3 entered the Munsiff's court compound inorder to get some respectable sureties, but A1 pulled him back. Heated words passed in a loud voice in the presence of P.Ws 2 & 3, and a process server of the court rebuked P.W3 and A1 and asked them to clear out which they did. A3 offered a further bribe of four rupees to A1 if he would handcuff P.W3, but A1 did not accede to the request. Outside the gate of the Munsiff's court, A2 began pushing P.W3. A3 was abusing P.W3. At the gate of the Taluk office A3 gave a kick

of two or three or four rupees for locking up P.W3. P.W3 was searched, locked up at 2 P.M and released only at 5 P.M despite several messengers sent by the Stny sub Magistrate Udipi (P.W1) on the representations of Mr Ganapayya Shetty. P.W3 never said anything to P.W1 about his alleged ill-treatment. Nor did his vakil Mr Ganapayya Shetty. P.W3 also never tried to represent his grievances to P.W2 in the Munsiff's court compound, though he was only 15 yards away. P.W1 is the Stny Sub Magistrate Udipi. He swore that he ordered P.W3 to be produced before him forthwith on the representations made by Mr Ganapayya Shetty. That the man was not produced till 45 minutes later owing to the absence of the Station writer, H/Sr, who had gone for taking meals and the consequent inability to enter certain details about the prisoner in a register, that P.W3 was finally released at 3.30 P.M and that he found nothing out of the way with the prisoner. P.W1 added that A2 had been a witness against P.Ws 3 & 5 in C.C 20/27, that A3 was alleged to be the prime mover in that case and that the bailable warrant issued against P.W3

had been returned with the endorsement that P.W 3 had been arrested and produced as he had no sureties. P.W 2 swore that between 2 & 3 P.M one day he saw A1 & P.W 3 inside the compound of the Munsiff's court, Udipi, and P.W 3 saying that he would produce bail and A1 saying that that was impossible. Later on, he saw the process server make them clear out. P.W 2 never spoke to P.W 3 or A1 though P.W 3 was his client in O.S 20/27 and had gone to him that very morning in connection with that case, nor did P.W 3 speak to P.W 2. P.W 2 however sent Mr Ganapthaya Shetty to the Stry Sub Magistrate's Court. In the evening P.W 3 went with P.W 2 for some local inspection in connection with the case, and P.W 3 told him some details of this case but he never considered about them or even formed an opinion about them. P.W 2 said that the whole of Udipi regarded A1 as a great scoundrel, and that he saw A 2 standing outside the gate of the Munsiff's court compound when words were exchanged between P.W 3 and A1. P.W 4 is another lawyer. He spoke to the words exchanged by A1 & P.W 3 in

the Munsiff's court compound, P.W3 saying either that he would search for sureties or would produce them and A1 replying that he could not be allowed to go about like that P.W4 saw nothing strange or singular in this talk and beckoned to A1 & P.W3 to clear out as they were disturbing the court. P.W4 never saw A2 outside the gate. P.Ws 5, 6 & 7 tried to give much the same story as P.W3 but committed several gross discrepancies revealing that they had been tutored to give a story which they could not give consistently in replies to unexpected questions.

All the accused stated that the case was false. A1 stated that the case had been foisted on him owing to his having booked one M. Rama Krishna who was very influential. A2 said that the case had been foisted on him owing to his having given evidence against P.Ws 3 & 5 in C.C. 20/27, his having abused P.W3 for plucking encumbers from his tenant's garden and giving to P.W2, and his working against P.W2 in the Taluk Board Elections. A3 said that the case had been foisted on him because of his being the uncle of the complainant in C.C. 20/27 and because of

is not compromising that case.

After careful consideration I find that there is no case made out against any of the accused which if unrebutted would end in conviction and so discharge them all under section 253(1) C.P.C.

My reasons are:—

1. The alleged conduct of P.W3 belies his story. The fact that P.W3 never mentioned anything about these alleged offences to P.W1, the Stry Sub Magistrate, when he was produced before him is the strongest condemnation of his story. P.W1's evidence shows that he saw nothing out of the way about P.W3. This shows that P.W3 was not weeping as he and P.Ws 5, 6 & 7 falsely allege. I am certain that had P.W3's story been true he would have narrated it to P.W1 and also to P.W2 in the Munsiff's court compound which he never did. Nay, he did not even tell these woes to Mr Ganapthayya Shetty or Bommayya Hegde. Again if P.W3 really went to Udipi to get the bailable warrant served on himself, why should he not

have consulted his two vakils Messrs Ganapathayya Shetty and P.W2. to whose houses he went that very morning and surrendered to court. He never went to the police station even but kept behind on the pretext of drinking water in Sri Ganapathayya Shetty's house as if water was not available on the way to the police station. The whole story is unnatural. It becomes bizarre when we are told that his companions searched for A1 instead of requesting the Stry Sub Magistrate or Station house officer to do the needful.

Again why should A1 have refused bail alone when he didn't refuse it to six others? It is also ridiculous to believe that P.W3 would have allowed himself to be led along crowded streets without shouting for help, or that his companions, P.Ws 5, 6 & 7 would not have run and fetched his lawyers had he really been ill-treated and had they been with him. The story of P.Ws 5, 6 & 7 inanely following P.W3 is too

ludicrous to be believed. The alleged offer of bail of P.Ws 6 & 7 is a clear concoction. The fact appears to be that P.W3 who was evading service was caught near the shandy, arrested by A1, had no surety to offer just then and was taken to the sub-jail, searched and produced at leisure before the Sub Magistrate. It is possible that P.W3 wanted to roam about in search of sureties and that A1 didn't allow that. The evidence of P.Ws 2 & 4 supports this version which is strengthened by the fact that they never interfered on his behalf though P.W2 was his own lawyer in that very case. Possibly A2 & A3 laughed at his predicament and jeered at him and so have been eagerly roped in for this and other reasons into this case. The complainant was released at 3.30 P.M and was in the Munsiff's court compound at some time between 2 & 3 P.M according to P.W2. So he could never have been locked up for 3 hours as he falsely alleged in his complaint. He was produced 45 minutes late owing to the temporary

(11

absence of the Station Writer. It is not by any means proved that this detention was avoidable as vexatious or even that A1 was responsible for it. As soon as he was produced, he was released on bail and had no time to imagine grievances and ventilate them. Hence his silence towards P.W1 and his vakil and Bomanayya Hegde.

2. The lies uttered by P.W 3. Thus, his saying that he was released only at 5 P.M, that he was shut up for three hours, that he didn't know that A1 had a warrant that he wept before P.W 1 etc. etc. prove how unreliable his evidence is.

3. The alleged conduct of P.Ws 5, 6 & 7 is too unnatural to be believed. Their not informing the neighbouring shop-keepers and spectators about the iniquities of A1 to A3, not fetching the vakils, mainly following P.W 3 searching for A1 themselves without taking P.W 3 also with them, not informing the vakil Mr Ganapaya Shetty about the iniquities of A1 to A3 are instances in point. P.Ws 5, 6 & 7 repeated an agreed story but indulged in colossal discrepancies in answers to unexpected questions as to what route they took while going to the Shandy, whether they halted

in the Mansiff's court compound or anywhere else on the way to the Shandy where A3 abused P.W3, where A2 & A3 were standing while the court compound incident occurred, about the bribe offered and taken etc etc. P.W3 had talked of A2's continually pushing him while P.Ws 5+6, who alone spoke to the pushing, swore that only a single push was administered. The remarkable volte face of P.W3 who from his story of seeing a bribe of Rs 2 or 3 or 4 being given to A1 by A3 for locking him up (P.W3) finally climbed down to a jingling sound which led to the inference of a bribe, and the farrat like repetition of the jingling and its inference by P.Ws 5+6 further discredit P.W3's story.

4. The improbability of many of the incidents. It is absurd to believe that A1 would have dragged P.W3 along the whole way or that he would have openly received a bribe at the gate of the Taluk office in broad day light in the presence of P.Ws 3, 5+6 and numerous others or that he would have

taken P.W 3 into the Munsiff's court compound had he wanted to exclude all possibility of sureties which he could have easily done by taking P.W 3 along the Kadbettu road straight through Ajjarkadu to the Taluk office without ever bringing him near the Munsiff's court, or that A 2 would have pushed P.W 3 close to the Munsiff's court, or that A 3 would have ~~pushed P.W 3 close to the Munsiff's court or that A 3 would have~~ abused P.W 3 therefore that A1 would have refused a prior bribe of four rupees while agreeing to accept a later one of two or three ~~or~~ four rupees of jingling fame

5. The interestedness of the really important P.Ws. P.W 4 proves no offence and indeed saw none. P.W 1 also proves no offence. P.W 2 even proves no offence and is moreover the lawyer of P.Ws 3 & 5 besides having a strong prejudice against A1. P.W 7 is P.W 3's brother-in-law P.W 5 is P.W 3's ~~in~~ co-accused in C.C. $\frac{20}{27}$. P.W 6 was his co-accused in a case brought by the Patel of Badanidiyur. Besides P.Ws 3, 5, 6 & 7 are Chums. A 2 & A 3 were on the opposite side in C.C. $\frac{20}{27}$ where P.Ws 3 & 5 were accused and P.W 2 their vakil. A 2 was a witness

and admittedly presented a compromise. A3 was held to be the prime mover.

6. There were sufficient motives for PW3 to bring a false case against A1 to A3. We have seen the motive as regards A2+A3. As regards A1 I hold the motives of PW3 to be two, one being his chagrin at not being allowed by A1 to roam about in search of sureties and the other perhaps his being told by P.W2 that A1 was a scoundrel thus generating in him a suspicion that perhaps A1 had received a bribe from A2 or A3 or the complainant in C.C 20/27 and had deliberately refused him permission to roam about in search of sureties. The first number motive alleged by A2 is also not improbable.

All these reasons lead me to look upon P.W3's story with the greatest suspicion. Moreover it is hopelessly improbable, inconsistent and unbelievable as narrated. So I discharge all the three accused under Section 253 (1) C.P.C. But I do think that this is not a wholly false case and vexatious case. A1 could have allowed P.W3 some little time to search for sureties instead of hurrying him along

though he was legally entitled to do so. could have also produced P.W 3 somewhat earlier before P.W 1 though he was not proved to be legally blameable for not doing so. Perhaps also, he was unnecessarily harsh towards P.W 3. As regards A2 + A3 it is quite probable that they saw P.W 3 being taken under arrest and jeered at him which might have led P.W 3 to suspect bribe giving and invent abuses and pushing. I do not consider any of the accused as deserving of any compensation and so do not propose to take action under section 250 Cr.P.C.

(sd) A.S.P. Ayyar
12.3.27
Joint Magistrate.

Appendix

Witnesses

For the Prosecution.

1. Mr. M. Raghavendra Rao.
2. Mr. Vittal Kamath
3. Annayya Shetty. 4. Mr. Venkatesh Prabhu
5. Koraga Shetty. 6. Ramoji. 7. Jogu Shetty

For the defence — Nil.

Exhibits.

For the Prosecution:- A — Bailable warrant —

Issued by P.W1 in B.C. 20/27 against P.W3.

+1. Bail bond executed by P.W3.

For the defence.

1. Return made by A1 on the back of the bailable warrant.

Station House Writer's endorsement bailable warrant.

dings in B.C. 59/26 on the file of lass Bench of Magistrates,

l objects; - Nil.

ondapoor (Sd) A. S. P.
12.3.27. Joint Magistrate.

(True Copy)

M. [illegible]

for Joint Magistrate.

T.S. 27 (Cayotte)

Law (Genl) Dept

9/xi/6

Memo/ 2418B-2 dt 22-6-27

Legal assistance - K. Ramappa, P.C. No 616 - Ref in para 1 of this letter No 201-C-27 dt 13.5.27.

The D.M, Sirsi Kanara is requested to state whether the vakil engaged to defend the accused agreed to accept a daily fee of Rs 35 subject to a maximum of Rs 60 for the whole case.

Xp
6665

To the D.M, Sirsi Kanara

16/6/27.

23/6/27.

C.F. 30—10.000—7-8-26.

LAW (GENERAL) **DEPARTMENT.**

Law (G)/3004B

Received ..... 192 . *Registered* 27 192).

Subject

Legal assistance - Ramappa, K. - Police Constable No.616.

Reference: Government Memorandum No.2418-B-2, dated 22nd June 1927.

ENCLOSURES.
No. .....
.....
Spare copies.....

Ref. No. 2101-C-27.

Station Mangalore, *Dated the* 29th June 192 7.

From (Name) E. M. Gawne, Esquire, I.C.S.,

(Designation) Dt. Magistrate of South Kanara.

To The Secretary to the Government of Madras,

Law (General) Department.

Madras.

Sir,

The District Superintendent of Police was asked to engage a vakil at a daily fee of Rs.35/- subject to a maximum of Rs.100/- for the whole case. The vakil has not agreed to accept a maximum fee of Rs.60/- for the whole case. A sum of Rs.70/- may therefore be sanctioned as recommended.

2. It is suspected that the figure 100 in my letter of the 13th May may have been wrongly fair copied as 60.

Your obedient servant,

Dt.Magistrate.

M.D'S.29/6.

Law (Genl) Dept.

[C No 24188] From the D.M. South Kanara. Rep. No 2107-C -27 dt 13.5.27.

Subject:- Legal assistance to a police Constable

R.S.

Subd that the remarks of Judicial (Police) may be invited in the first instance.

Asst. 18/5/27.

Ry 16.5.27

Now 18.5.27

R (19.5.27)

Asst. C.S.

RECEIVED 21 MAY 1927 SECRETARIAL DEPT.

Law (Genl) No 24188-1 / 22.5.27

RECEIVED 23 MAY 1927 CHIEF SECY

U.S.

Law (Genl) Dept.

~~The D.M's recommendation may be invited. His report not received with~~ ~~for explanations.~~

The D.M's recommendation for the payment of the Vakil's fee of Rs 30 may be accepted & the file transferred to Law

R. 23.5.27. CURRENT NO. 1819 JUDICIAL

The engagement was Rs 60/- as a maximum. Shd we ask if Vakil was asked to accept that?

4.6.27

Law

RECEIVED 7 JUN 1927 GOVT. OF MADRAS LAW DEPARTMENT

4.6.27

Rus

4.6.27.

hy. 7.6.27

CS.

We may leave it to Law Dept.

9 JUN. 1927

Jud/1819-1/6.27

Spl to the amount. The legal expenses may be paid.

Law

7.6.27

2

L'an (Rev.) Dept

Subt for orders whether the DM's recommendation will be accepted

I think we should ask the DM if the Vakil consented to accept Rs 60.

3/4/27

Ch. 31/3/27.

U.S.

Draft memo to the D.M submd for approval.

CS. 2.7

16/6

Issued as memo 4418B-2 dt 22.6.27.

[Cmo 3904B] From the D.M. South Kanara. Rep. No 2101-C-27 dt 29.6.27.

P 21 C.F.

P 22 C.F.

A.S.

It is stated that the vakil had not agreed to accept the maximum fee of Rs 60. Vide D.M's letter on p 22 C.F. Subd that the fee of Rs 70 already recommended by the D.M may be sanctioned. Draft subd.

4.7.27.

6.7.27

11.7.27.

Scott. II-5 (a)—40,000—9-11-26. (6)

33/927

	Date.	Initials.
When received for Fair-copying.		
When copied ..		
When examined ..	4/7	
When signed ..		
When despatched ..		

Law (Gl) DEPARTMENT

Legal assistance.

K. Ramappa. P.C. No 616, Sankh Ranara Dt. - Fees to pleader - Rs 70 sanctioned.

READ AGAIN G.O. No. ....., dated ..... 192 .

" " " " ..... " ..... 192 .

READ ALSO :—

[C. No. 3004B] From the D.M. Sankh Ranara Rg No. 210/-C-27 dated 29. 6. 1927.

" " ..... " " ..... " ..... " ..... 192 .

" " ..... " " ..... " ..... " ..... 192 .

ORDER.

Misc.

No. 2111, dated 8/7/1927.

The Govt. are pleased to sanction a fee of Rs 70 (seventy) to the pleader engaged to defend K. Ramappa P.C. No 616 in C.C. Nos 5 of 1927 on the file of the Joint Magistrate, Coondapoor.

Sd/- 8/7/27

Sd/- 6.7.27

To the D.M. Sankh Ranara (with the stamped receipt on p4 c.f.).

" " Accl. Genl.